

<p>Attorney or Party Name, Address, Telephone & FAX Numbers, State Bar Number & Email Address G. Helena Philips (SBN 180665) Law Office of G. Helena Philips 491 W. Washington Blvd. Montebello, CA 90640 Tel: (323)727-6718 Fax: (323)500-1430 attyphilips@yahoo.com</p> <p><input type="checkbox"/> Debtor appearing without attorney <input checked="" type="checkbox"/> Attorney for: Debtor</p>	<p>FOR COURT USE ONLY</p> <div data-bbox="1047 262 1432 535"><p>FILED & ENTERED</p><p>JUN 21 2018</p><p>CLERK U.S. BANKRUPTCY COURT Central District of California BY bakchell DEPUTY CLERK</p></div> <p>CHANGES MADE BY COURT</p>
<p><u>NOT FOR PUBLICATION</u></p> <p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – <u>LOS ANGELES</u> DIVISION</p>	
<p>In re: Manuel Ayala-Aguilar</p> <p>Debtor(s).</p>	<p>CASE NUMBER: 2:13-bk-21501-RK CHAPTER: 7</p> <p>ORDER <input type="checkbox"/> GRANTING <input checked="" type="checkbox"/> DENYING DEBTOR'S MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (REAL PROPERTY)</p> <p><input checked="" type="checkbox"/> No hearing held <input type="checkbox"/> Hearing held DATE: TIME: COURTROOM: ADDRESS:</p>
<p>Creditor Holding Lien to be Avoided (name): Midland Funding, LLC</p>	

The Motion was: ☐ Opposed ☒ Unopposed ☐ Settled by stipulation

Pursuant to 11 U.S.C. § 522(f), Debtor moved to avoid a judicial lien on real property claimed to be exempt. The court finds and orders as follows:

- ☐ Notice of this Motion complied with LBR 9013-1(d).
- ☒ Notice of this Motion complied with LBR 9013-1(o).
 - ☒ There was no opposition and request for hearing.
 - ☐ Hearing requested and held as indicated in the caption.
- ☐ Motion granted as set forth in the **Attachment** to this order.

"Bankruptcy Code" and "11 U.S.C." refer to the United States Bankruptcy Code, Title 11 of the United States Code.
"FRBP" refers to the Federal Rules of Bankruptcy Procedure. "LBR" and "LBRs" refer to the Local Bankruptcy Rule(s) of this court.

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

4. ☒ Motion denied on the following grounds: ☐ with prejudice ☒ without prejudice
- a. ☐ Insufficient notice
 - b. ☐ Insufficient evidence of the exempt status of the property in question
 - c. ☐ Failure to comply with FRBP 7004(b)(3) or FRBP 7004(h).
 - d. ☒ Insufficient evidence of fair market value.
 - e. ☐ Motion is incomplete.
 - f. ☒ Other (*specify*): The valuation evidence in support of the motion is based on the opinion of a real estate broker who said in his declaration that he conducted an appraisal on both sales comparison and costs approaches, but provided no data and analysis in support of his opinion, which is conclusory. The court cannot tell if the broker's opinion is made in accordance with scientifically accepted valuation principles without showing the data and analysis to support the opinion under Federal Rule of Evidence 702. Lacking the supporting data and analysis, the court finds that the valuation opinion of the broker is not of assistance to the court because it lacks the necessary foundation to be inadmissible.
5. ☒ The court further orders as follows (*specify*): The court grants debtor leave to file an amended motion which corrects the above-stated deficiency.
- ☐ See attached page

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Date: June 21, 2018



Robert Kwan
United States Bankruptcy Judge

**ATTACHMENT TO MOTION/ORDER
(11 U.S.C. § 522(f): AVOIDANCE OF REAL PROPERTY JUDICIAL LIENS)**

This court makes the following findings of fact and conclusions of law:

1. **Creditor Lienholder/Service:** Midland Funding LLC.

2. **Subject Lien:** Date (*specify*): 02/19/2013 and place (*specify*): Official Records Recorder's Office, Los Angeles, County of recordation of lien; Recorder's instrument number or document recording number: 20130250693.

3. **Collateral:** Street address, legal description and/or map/book/page number, including county of recording:
4848 Cutler Ave., Baldwin Park, CA 91706. ☐ See attached page.
The Northerly 55.0 Feet of the Southerly 541.00 Feet of the Westerly 133.00 Feet of the Easterly 300.00 Feet of the Northwest Quarter of Section 7, Township 1 South Range 1 West, San Bernardino Meridian, in the City of Baldwin Park, County of Los Angeles, State of California.

4. **Secured Claim Amount**

a. Value of Collateral: \$ 316,000.00

b. Amounts of Senior Liens (reducing equity in the property to which the Subject Lien can attach):

(1) First lien: (\$ 363,883.45)

(2) Second lien: (\$ 12,871.53)

(3) Third lien: (\$ _____)

(4) Additional senior liens (*attach list*): (\$ _____)

c. Amount of Debtor's exemption(s): (\$ 12,871.53)

d. Subtotal: (\$ 389,626.51)

e. Secured Claim Amount (negative results should be listed as -\$0-): \$ -\$0-

Unless otherwise ordered, any allowed claim in excess of this Secured Claim Amount is to be treated as a nonpriority unsecured claim and is to be paid *pro rata* with all other nonpriority unsecured claims (in Chapter 13 cases, Class 5A of the Plan).

5. **Lien avoidance:** Debtor's request to avoid the Subject Lien is granted as follows. The fixing of the Subject Lien impairs an exemption to which Debtor would otherwise be entitled under 11 U.S.C. § 522(b). The Subject Lien is not a judicial lien that secures a debt of a kind that is specified in 11 U.S.C. § 523(a)(5) (domestic support obligations). The Subject Lien is void and unenforceable except to the extent of the Secured Claim Amount, if any, listed in paragraph 4.e. above.

☐ See attached page(s) for more liens/provisions.